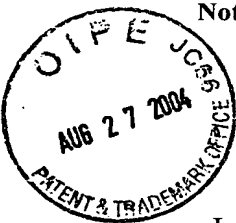


DOCKET NO.: UPN-3904  
Application No.: 09/648,306  
Notice of Allowance Dated: May 25, 2004

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
**Koch, et al.**

Confirmation No.: 6906

Application No.: 09/648,306

Group Art Unit: 1626

Filing Date: August 25, 2000

Examiner: Sonya N. Wright

For: **Detection of Hypoxia**

DATE OF DEPOSIT: August 25, 2004

I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID, ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

A handwritten signature in black ink, appearing to read "Richard D. Watkins".

TYPED NAME: Richard D. Watkins  
REGISTRATION NO.: 50,993

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

COMMUNICATION AFTER ALLOWANCE PURSUANT TO 37 CFR § 1.312

In response to the Notice of Allowance dated **May 25, 2004**, reconsideration is respectfully requested in view of the amendments and/or remarks as indicated below:

- ☐ **Amendments to the Specification** begin on page of this paper.
- ☐ **Amendments to the Claims** are reflected in the listing of the claims which begins on page of this paper.
- ☐ **Amendments to the Drawings** begin on page of this paper and include an attached replacement sheet.
- ☒ **Remarks** begin on page 2 of this paper.

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### REMARKS

In an Office Action dated July 16, 2001 in connection with the above-identified patent application, Examiner Wright indicated that she needed copies of the references referred to in the information disclosure statement filed on May 10, 2001. In the information disclosure statement, Applicants noted that the references were provided to the patent office in connection with the parent application -- U.S. Patent Application Serial Number No. 09/123,300 ("300 application"), which was filed on July 28, 1998, and issued as U.S. Patent 6,252,087 on June 26, 2001. Attached hereto is a signed copy of the PTO 1449 from the parent application.

In a December 14, 2001 Communication, Applicants responded to Examiner Wright's request for copies of the references. In that Communication, Applicants forwarded copies of the cited references and advised Examiner Wright that although a copy of the reference entitled "Oxygen Concentration Determined Non-Invasively," *Biomed. Products*, 1992, 17(12), 31 could not be located at that time, it was cited and submitted to the PTO in the 300 application as reference "AR" on the PTO 1449 form. Applicants also stated that Horsman, M.R., "Lack of Correlation with Eppendorf," 1996, could not be found after a reasonable search. Applicants have again conducted a further search for these references. But after this further reasonable search, Applicants still have not located copies of the two references mentioned above. Applicants have also conferred with inventor Koch regarding the same and he has no knowledge of either reference.

Date: August 25, 2004



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